

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18746.3. Revolving Door; Local Officials.

(a) The prohibitions of Government Code section 87406.3 apply to a public official who, on or after July 1, 2006, holds a position as a:

- (1) Local elected official;
- (2) Chief administrative officer of a county;
- (3) City manager, including the chief administrator of a city; or
- (4) General manager or chief administrator of a special district who holds a position with a local government agency as defined by Government Code section 82041, including the general manager or chief administrator of an air pollution control district or air quality management district.

(b) A public official covered by subdivision (a) of this regulation is prohibited from making any appearance or communication if all of the following, apply:

(1) The official has permanently left, or is on a leave of office from, that particular office or employment specified in subdivision (a) of this regulation.

(2) The appearance or communication is made within 12 months after leaving that particular office or employment.

(3) The public official is compensated, or promised compensation, for the appearance or communication. For purposes of Government Code section 87406.3, a payment made for necessary travel, meals, and accommodations received directly in connection with voluntary services is not considered compensation.

(4) The appearance or communication is made on behalf of any person as an agent, attorney, or representative of that person. An appearance or communication made by a public official to represent his or her personal interests, as defined in 2 Cal. Code Regs. section 18702.4, subdivision (b)(1), is not prohibited or limited by this section unless the appearance or communication is made in a quasi-judicial proceeding, as defined in subsection (b)(5)(C) of this regulation, in which the official participated while serving as a local government employee or officer.

(5) The appearance or communication is made for the purpose of influencing, as defined in 2 Cal. Code Regs. section 18746.2, any legislative or administrative action, or any discretionary act involving the issuance, amending, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. Notwithstanding Government Code sections 82002 and 82037, for purposes of Government Code section 87406.3, the following definitions apply:

(A) "Administrative action," as defined in Government Code section 87406.3(d)(1), means the proposal, drafting, development, consideration, amendment, enactment, or defeat by any local government agency of any matter, including any rule, regulation, or other action in any regulatory proceeding including a ratemaking proceeding, whether quasi-legislative or quasi-judicial. "Administrative action" does not include any action that is solely ministerial.

(B) "Quasi-legislative" means any proceeding involving the adoption of rules of general applicability, including but not limited to annexations of territory to a city or district, adoption or amendment of zoning ordinances, adoption of regulations, or granting of franchises.

(C) "Quasi-judicial" means any proceeding that determines the rights of specific parties, or applies existing laws to specific situations, including but not limited to any proceedings to

issue or revoke licenses, building permits, zoning variances, conditional use permits, parcel and subdivision maps, or coastal development permits.

(D) "Legislative action," as defined in Government Code section 87406.3(d)(2), means the drafting, introduction, modification, enactment, defeat, approval, or veto of any ordinance, amendment, resolution, report, nomination, or other matter by the legislative body of a local government agency or by any committee or subcommittee thereof, or by a member or employee of the legislative body of the local government agency acting in his or her official capacity.

(6) The appearance or communication is made before any officer or employee of any of the following:

(A) The particular local government agency, including any officer or employee of any committee, subcommittee, or present member of that local government agency, that the public official worked for or represented as specified in subdivision (a) of this regulation. An employee loaned to a local government agency is deemed to have worked for or represented that agency.

(B) Any local government agency whose budget, personnel, and other operations are subject to the direction and control of any agency described in subsection (b)(6)(A) of this regulation.

(c) The prohibitions of Government Code section 87406.3 and this regulation do not apply to any individual who, at the time of the appearance or communication, was a board member, officer, or employee of another local government agency or an employee or representative of a public agency and is appearing or communicating on behalf of that agency.

Note: Authority cited: Section 83112, Government Code. Reference: Section 87406.3, Government Code.

HISTORY

1. New section filed 3-20-2007; operative 3-20-2007. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2007, No. 12).